

REMARKS

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 1, 2, 4-6, 11-18, 20-22 and 27-32 are pending in this application. No claim amendments are presented, thus no new matter is incorporated.

In the Final Action of February 16, 2005, Claims 1, 2, 4-6, 11-18, 20-22 and 27-32 were rejected under 35 U.S.C. § 103(a) as anticipated by [www.bellagio.com](http://www.bellagio.com) (hereinafter, “Bellagio”), archived on November, 29, 2001, and [www.westwardho.com](http://www.westwardho.com), archived on May 5, 2001.

In response to this Final Action, Applicants responded by pointing out that the archived date of the Bellagio reference postdates the filing date of the present application (August 6, 2001), and that the webpage indicated as archived on November 29, 2001, on [www.archive.org](http://www.archive.org) from [www.bellagio.com](http://www.bellagio.com) does not match the archive information provided with the Final Action.

The Office responded with the outstanding Advisory Action which states that “while the cited November 29, 2001 date of the [www.bellagio.com](http://www.bellagio.com) web page does not qualify the reference as prior art, the same page was available and archived on May 15, 2005.” The outstanding Advisory Action further states that it would have been reasonable for the Applicant to check the first archived reference prior to the Applicant’s priority date for the validity of the reference, and that referencing the November 29, 2001 date was a minor oversight and as such finality of the outstanding Final Action is maintained.

However, Applicant respectfully submit that the response filed on May 16, 2005 overcame the final rejection February 16, 2005 by pointing out that the filing date of the present application predates the Bellagio reference cited as 35 U.S.C. § 103 prior art by the Final Action. In contrast to the assertion set forth in the Advisory Action, Applicants do not

have a duty to independently validate a reference by searching to determine if another similar reference was available prior to the priority date of the present application. Thus, maintaining finality of the Final Action of February 16, 2005 is clearly improper.

The undersigned thank Examiner Kramer for taking the time to discuss this issue via telephone on June 13, 2005. Examiner Kramer stated that, in light of the issues discussed above, he would withdraw the Final Office Action of February 16, 2005, and issue a subsequent Office Action addressing the merits of the pending claims. However, as stated in the response of May 16, 2005, Applicants respectfully request that if a further Office Action is issued rejecting the claims in view of a website, that detailed instructions be provided regarding how the website can be accessed so that the reference can properly be obtained.

Consequently, in light of the foregoing comments, Applicants respectfully request that the final rejection of February 16, 2005 be withdrawn and an early and favorable reconsideration of the application is requested.

Respectfully submitted,

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